

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DONALD F. SCOTT,

Petitioner, : Case No. 3:18-cv-334

- vs -

District Judge Walter H. Rice.
Magistrate Judge Michael R. Merz

NORMAN ROBINSON, Warden,
London Correctional Institution

:
Respondent.

REPORT AND RECOMMENDATIONS

This habeas corpus action is before the Court on Respondent's Motion to Dismiss (ECF No. 11). As Respondent points out, Petitioner has been released from custody and has not furnished either the Court or Respondent's counsel with an address at which papers may be served. It is accordingly respectfully recommended that the Petition herein be dismissed without prejudice for want of prosecution. This will enable Petitioner to reinstate the proceedings (provided the statute of limitations has not expired) if he desires to pursue the case. Because reasonable jurists would not disagree with this conclusion, Petitioner should be denied a certificate of appealability and the Court should certify to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*.

November 14, 2018.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).